



18 APR 2006

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595 Shrewsbury Avenue  
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In re Application of

DEROSA, Peter

Application No.: 10/524,682

PCT No.: PCT/US03/24552

Int. Filing Date: 06 August 2003

Priority Date: 15 August 2002

Attorney Docket No.: SED-109-US

For: A SMART AUDIO GUIDE SYSTEM  
AND METHOD

DECISION ON PETITION  
UNDER 37 CFR 1.47(b)

This decision is issued in response to applicant's "Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers or Cannot Be Reached any 37 CFR 1.47(b)" filed 10 February 2006, to accept the application without the signature of inventor, Peter DeRosa. The petition fee has been submitted.

### BACKGROUND

On 06 August 2003, applicant filed international application PCT/US03/24552 which claimed a priority date of 15 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 February 2005.

On 15 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of international application.

On 14 November 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 10 February 2006, applicant filed "Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers or Cannot Be Reached any 37 CFR 1.47(b).

### DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A complete review of the papers filed 15 February 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor has refused to execute the application, stated the last known address of the non-signing inventor, provided an acceptable declaration, provided sufficient proof of proprietary interest, and provided a sufficient showing of preservation of right or irreparable damage. Accordingly, all of the requirements of items (1) through (6) above have been satisfied.

### CONCLUSION

The renewed petition under 37 CFR 1.47(b) is GRANTED.

The application will be given an international filing date of 06 August 2002 under 35 U.S.C. 363, and a date of **10 February 2006** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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In re Application of  
DEROSA, Peter  
Application No.: 10/524,682  
PCT No.: PCT/US03/24552  
Int. Filing Date: 06 August 2003  
Priority Date: 15 August 2002  
Attorney Docket No.: SED-109-US  
For: A SMART AUDIO GUIDE SYSTEM AND METHOD

Dear Mr. DeRosa:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.


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The sole inventor/applicant, Peter DeRosa (hereinafter "DeRosa") has refused to execute a Declaration. Enclosed herewith are Petition for the Filing of Patent Application When Sole Inventor Refuses to Execute Papers or Cannot Be Reached Under 37 C.F.R. 1.47(b), (2) Declarations of William D. McCall and Yvette Thornton in support of the Petition, and (3) Combined Declaration and Power of Attorney executed by William D. McCall, signing under 37 C.F.R. 1.47(b) as agent for and on behalf of Sedna Patent Services, LLC and as agent for DeRosa (in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date). The Commissioner is authorized to charge the \$130 fee for late submission (**at the large entity rate**) to counsel's Deposit Account No. 20-0782/SEDN/PRED109. [See Petition papers for authorization to charge the Petition fee to counsel's Deposit Account No. 20-0782/SEDN/PRED109.]

If any other fees are due in connection with this response and the Petition, and during the pendency of this application, the Commissioner is authorized to charge 37 C.F.R. 1.16 and 37 C.F.R. 1.17 fees due (or credit any overpayment of fees) to Deposit Account No. 20-0782/SEDN/PRED109.

Respectfully submitted,

  
Eamon J. Wall, Attorney  
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Adjustment date: 05/01/2006 VWALLACE  
02/15/2006 ATRAM1 00000051 200782 10524682  
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